

Remarks

Entry of the foregoing amendments and reconsideration of this application are respectfully requested in view of the following remarks.

As the Examiner will note, some of the withdrawn claims have been amended. This was done so that the withdrawn claims that depend from non-withdrawn claims conform with the amendments made to the claims from which they depend.

The specification has been amended to include the term “bead.” Support for such term is found in the figures of the disclosure, including Figures 1A, 2, 3A, and 3B. Thus, no new matter is added by this amendment to the specification. Accordingly, the Examiner’s objection to the specification has been overcome.

Independent claim 1 stands rejected as allegedly being anticipated by WO 99/24106 to Matsuura et al. (the “Matsuura reference”). Claim 1 has been amended to clarify the placement locations of the proximal end and the distal end of the ureteral stent. The Matsuura reference discloses a drug-infusing devise for placement in a bladder of a patient and thus does not disclose or suggest a ureteral stent that includes a distal end for placement within a kidney of a patient and a proximal end for placement in one of a ureter of a patient and a bladder of a patient. Accordingly, claim 1, and the claims that depend therefrom, are patentably distinguishable over the Matsuura reference.

Independent claims 1, 15, and 26 stand rejected as allegedly being anticipated by WO 99/58083 to Taylor et al. (the “Taylor reference”). Independent claims 1, 15, and 26 have been amended to include a retention module that includes at least one bead having a diameter between 3 and 10 millimeters. The bead or beads are buoyant and help retain the retention module in the bladder of the patient. In reference to Figures 12-16, the Taylor reference discloses a stent 130 having a basket 110 connected by a tether 116. The basket 110 has ribs 112 joined by bonding. The Office Action appears to argue that the items 123 of the Taylor reference correspond to the bead of the present invention. To the extent that items 123 are beads, there is no disclosure or suggestion in the Taylor reference of the size of such items, certainly not anything suggesting that the item have a size between 3 and 10 millimeters. This is not likely because the items 123 do not appear sized to retain the basket in the bladder as it is the basket itself that achieves this functionality. It is thus submitted that claims 1, 15, and 26, and the claims that depend therefrom, are patentably distinguishable over the Taylor reference.

Finally, claim 1 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Taylor in view of U.S. Patent Application Publication No. 2002/0173754 A1 to Whitmore, III (the “Whitmore reference”). The Whitmore reference and the claimed invention of the present application were owned by the same person or were subject to an obligation of assignment to the same person at the time that the present invention was conceived. Accordingly, under U.S.C. §103(c), the subject matter of the Whitmore reference should not preclude patentability of the claimed invention. Thus, the subject matter of the Taylor reference can not be combined with the subject matter of the Whitmore reference to reject claims of this application and it is specifically requested that any such rejections be withdrawn.

Newly added claim 33 includes the subject matter of claim 6, which was also rejected in view of the Whitmore reference. The Whitmore reference, however, as discussed in detail above, should not preclude patentability of the claimed invention. Thus, newly added claim 33, and the claims that depend therefrom, are allowable over the Whitmore reference.

Accordingly, it is respectfully submitted that the present application is now in condition for allowance. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

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